

Claim 9 has been rewritten in independent form to include all limitations of Claims 7 and 8, with the additional limitations that the bottom of the footbed be roughly flat, as stated in paragraph 0016 of the Specification, and the footbed be semi-rigid, as stated in paragraph 0080 of the Specification.

Claim 10 has been canceled, but its substance has been incorporated into Claim 11. Claim 11 has been amended, per the recommendations of the Examiner, so that it has been rewritten in independent form, including all of the limitations of its predecessor, Claim 10.

Claims 17 through 19 were previously canceled.

#### **A. CLAIM REJECTION - 35 U.S.C. § 103(a) - OF CLAIM 9**

The Examiner is required to show one or more references that teach a suggestion to combine or modify the references, making the present claims obvious. The combination in turn must teach or suggest all the claim limitations.

As noted above, Claim 9 has been amended to incorporate the limitations of Claims 7 and 8, plus two additional limitations which appear in the Specification.

The Examiner rejected Claim 9 as being obvious in light of Koniuk (U.S. Patent 4,619,059) over Calkin (U.S. Patent 4,461,104).

According to the Examiner, Calkin teaches an elastomeric tread pad, and Koniuk teaches a footbed made out of resilient elastomeric material.

However, Koniuk teaches a footbed with a curved underside (see, e.g., Koniuk, 1st paragraph, page 5, column 3, lines 12-15), rather than one with a flat underside. Koniuk states that this is to "provide [a] 'rocking action'".

Further, Koniuk teaches a footbed whose underside's material deforms under pressure (see, e.g., Koniuk, 1st paragraph, page 5, column 4, lines 26-30, and Figures 6 & 8), even deforming laterally while walking, or deforming over stones or rough or angled surfaces.

The present disclosure specifically teaches a footbed with a flat underside, for reasons given in paragraph 0010 of the Specification.

Further, the present disclosure teaches a footbed whose flat underside is less rigid, in turn holding a pad--that is not rigid--for springiness or cushionness.

Koniuk and Calkin teach away from the present disclosure in that they do not contain the same limitations as the present disclosure, and the present disclosure contains one or more limitations that are antithetical to Koniuk in combination with Calkin.

#### **B. CLAIM REJECTION - 35 U.S.C. § 103(a) - AND THE NON-APPLICABILITY OF ANNOVI TO THE PRESENT DISCLOSURE**

The Examiner relied upon Annovi (U.S. Patent 4,570,363) in his rejection of Claims 7, 8, and 10. However, a close examination of Annovi reveals that that patent deals with an *alteration* to the basic ski boot, rather than a simple apparatus (footbed) that fits onto a regular ski boot.

This means that Annovi teaches away from the use of pads or other apparatuses which are meant to attach to the bottom of a regular ski boot.

Specifically, it's noted in Annovi that the "regular walking sole" (3) portion of Annovi is the underside of his special boot (see Annovi, page 3, column 1, paragraph 6, lines 57-60) *without* his attachment. The attachment in Annovi is the "normalized sole" (9) which is "shaped and sized and formed of material conforming to established rules pertaining to the adaptation of ski boots to ski bindings." (see Annovi, page 3, column 2, paragraph 2, lines 8-10). The "normalized sole" is the part that attaches to the ski via the ski binding. (see Annovi, page 3, column 2, paragraph 8, lines 49-50). Thus, the "normalized sole" must be completely rigid, without any sort of cushioning or springiness. Further, the "normalized sole" must be removed in order to walk. It's an attachment to allow skiing, as opposed to walking.

Thus, Annovi teaches a change in how the basic ski boot is constructed, rather than an add-on apparatus that attaches to a regular, unaltered ski boot. As such, Annovi teaches away from simple attachments to a regular ski boot, as in the present disclosure.

#### **III. CONCLUSION**

For the reasons stated above, the Applicant asks that the Examiner enter the amendments contained herein, withdraw all rejections with respect to the two remaining claims (9 and 11), and allow the application to issue as a patent.

Thank you,  
Sincerely,



Ed Skoch